



House of Representatives

General Assembly

File No. 339

February Session, 2008

Substitute House Bill No. 5621

House of Representatives, April 1, 2008

The Committee on Human Services reported through REP. VILLANO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 17b-812 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2008*):

4 (f) Any person aggrieved by a decision of the commissioner or the
5 commissioner's agent pursuant to the program under this section or
6 pursuant to the federal Section 8 voucher program administered by the
7 department pursuant to the federal Housing Choice Voucher Program,
8 42 USC 1473f(o), shall have a right to a hearing in accordance with the
9 provisions of chapter 54. Nothing in this section shall give any person
10 a right to continued receipt of rental assistance at any time that the
11 program is not funded.

12 Sec. 2. Section 17b-811a of the general statutes is amended by

13 adding subsection (d) as follows (*Effective October 1, 2008*):

14 (NEW) (d) Any person aggrieved by a decision of the commissioner
15 or the commissioner's agent pursuant to the program under this
16 section shall have a right to a hearing in accordance with the
17 provisions of chapter 54.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	17b-812(f)
Sec. 2	<i>October 1, 2008</i>	17b-811a

HS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$
Department of Social Services	GF - Cost	Indeterminate

Municipal Impact: None

Explanation

This bill provides individuals under three rental subsidy programs at the Department of Social Services (DSS) with the right to a hearing under the Uniform Administrative Procedures Act (UAPA) and the ability to appeal a decision to the Superior Court. Currently, the appeals procedure ends at an internal desk review at DSS.

This change will lead to increased administrative costs to DSS due to the need for increased resources for UAPA hearings as well as appeals to the Superior Court. The extent of these costs is not known, as it is not known how many individuals will further appeal the decisions of the desk review. Currently, DSS conducts approximately 12 desk reviews per month.

It is anticipated that the Superior Court can handle any increased workload within the course of its normal practices.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5621*****AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.*****SUMMARY:**

This bill gives individuals in the rental assistance (RAP), transitionary rental assistance (T-RAP) and Section 8 voucher programs aggrieved by decisions of the Department of Social Services (DSS) commissioner or his designated agent, the right to a hearing in accordance with the Uniform Administrative Procedures Act (UAPA). The bill would allow these individuals to appeal final decisions to Superior Court after exhausting all administrative remedies.

Currently, these individuals may request an informal hearing and, under the RAP and T-RAP programs, a subsequent desk review to appeal DSS decisions on program eligibility. Because DSS is not statutorily required to hold hearings on eligibility for these programs, individuals cannot appeal final decisions.

EFFECTIVE DATE: October 1, 2008

UAPA HEARING PROCESS***Judicial Review***

Under the bill, an individual whose assistance is denied, modified or terminated may request a department hearing in accordance with UAPA and, if still not satisfied, can appeal to Superior Court. Under UAPA, final decisions by agencies in “contested cases” can be appealed to Superior Court within 45 days of the issuance of the final decision. The UAPA generally defines “contested cases” as those where a statute requires an agency to determine a party’s legal rights, duties, or privileges after a hearing (CGS § 4-166).

The court cannot substitute its judgment as to the weight of the evidence presented in the case. It can only overturn an agency's decision under limited circumstances. These include situations where (1) there was a violation of statutory or constitutional law; (2) an agency acted without statutory authority; (3) the agency was erroneous in its consideration of the evidence; (4) the agency's procedures were unlawful; or (5) the agency was arbitrary, capricious, or abused its discretion.

BACKGROUND

Appeals Process for the RAP and T-RAP Programs

DSS regulations establish an appeals process under the RAP and T-RAP programs. When an individual's assistance is denied, modified or terminated, DSS must send written notice. An individual may request an informal conference with DSS or its agent within seven days of receiving the written notice. DSS or its agent must designate someone to conduct the hearing within 30 days of the request, but the designee cannot be a person, or subordinate of a person, directly involved in making the decision. An individual may bring evidence, witnesses and legal or other representation to the conference at his or her own expense. He or she may also review any documents or information about the case prior to the conference. DSS or its agent must send the individual a written report of its findings within 30 days of the conference.

If the decision remains unchanged, the individual may request a desk review by DSS. DSS reviews all information considered at the informal conference and any additional evidence the individual submits. Upon completion of the desk review, a written report of the findings is sent to the individual (Conn. Agencies Reg., §17b-811a-8, §17b-812-12).

Appeals Process for the Section 8 Housing Choice Voucher Program

Federal Housing and Urban Development regulations (24 CFR 982.555(a-f), 982.54(13)) and DSS administrative plan procedures

govern the appeals process for the Section 8 Housing Choice Voucher program. The process is almost identical to that of the RAP and T-RAP programs except that it does not provide for a desk review and it uses different time frames for requesting an informal hearing and issuing a written report of the hearing's findings.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/13/2008)